

REMARKS/ARGUMENTS

New Claims 9 to 19 remain pending in this application. Original Claims 1 to 8 have been cancelled without prejudice. Applicants submit that no new matter has been added in the new claims. Applicants request the Examiner to reconsider the rejections based on the following arguments:

Rejection under 35 U.S.C § 112, 2nd paragraph

Claims 1 to 6 have been rejected under 35 USC § 112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which the Applicants regard as the invention. Applicants submit Claims 1 to 8 have been cancelled without prejudice and have been substituted with new Claims 9 to 19. Applicants further submit that new claims satisfy the requirements of 35 USC § 112, 2nd paragraph. In view of the above, Applicants request the Examiner to withdraw the rejection under USC § 112, 2nd paragraph.

Rejection under 35 U.S.C § 102

Original Claims 1 to 6 have been rejected under 35 U.S.C § 102 (b,e,e) as being clearly anticipated by the White et.al. reference (US 5,405,511), the Fey et. al reference (US 4, 720, 372) and the Zweig et.al reference (US 6.061,128). Applicants respectfully submit that the Claims are not anticipated by the above-cited references and request the Examiner to withdraw rejection for the following reasons:

As the Examiner is aware, for the claims to be anticipated under 35 U.S.C § 102, the reference **must teach each and every aspect** of the claimed invention either explicitly or implicitly. (emphasis added) MPEP § 706.02. Applicants submit that the cited reference do not disclose each and every aspect of the claimed invention.

The White et.al. reference discloses a biosensing meter that determines the value of the analyte in a biological sample. The meter employs an algorithm for determining the analyte value. This value of the analyte is dependent on the ambient temperature about the sample when the sample is present in the reaction zone. The temperature sensor is positioned within the

meter's structure and thereby exhibits a delayed response to changes in the ambient temperature. The meter performs a temperature estimation method to overcome the delayed temperature response. The method commences by the meter repetitively and periodically acquiring temperature readings from the temperature sensor when the biosensing meter is both in an on state and in an off state (Abstract). Therefore, there is no "currentless" measurement of the temperature before the meter is turned on.

The Fey et. al reference discloses a device for the evaluation of a flat test carrier for the analytical determination of components of body fluids. The device as disclosed has a tempering device and a regulating unit. The tempering device includes a heating and measurement unit having a heating surface that can be homogeneously heated with at least one resistance heating element. (Abstract). The reference further discloses that a portion of the heating element serves as a temperature measuring unit. (Column 2, lines 21-23). Therefore, the Fey reference discloses a device for heating the test strip and not a device for "currentless" measurement of the temperature before the meter is turned on.

Similarly, the Zweig et.al reference discloses a method for verifying an output of the system having radiation source and radiation detection. (Column 7, lines 8-10). The Zweig et.al reference also discloses a method for verifying temperature control of the system using an optical detection apparatus. However the Zweig et.al reference does not disclose any device for "currentless" measurement of the temperature before the meter is turned on.

As seen from above, the references cited by the Examiner do not disclose each and every element of the claimed invention and therefore, the rejection under 35 USC § 102 is improper and the Applicants request the Examiner to withdraw the rejection.

Conclusion

Applicants have filed a complete response to the outstanding office action and only allowable claims remain pending in this application. In view of the above, Applicant requests the Examiner to withdraw all rejections. If a personal conversation will expedite the prosecution of this application, the Examiner is requested to call the undersigned at 317 521 2851.

The Examiner is hereby authorized to charge Deposit Account No. 02-2958 for any fees associated with the filing of this Amendment. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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